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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,400	03/29/2001	Naishin Seki	JP919990315US1(590.048)	3587

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FERENCE & ASSOCIATES  
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PITTSBURGH, PA 15143

EXAMINER
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OSMAN, RAMY M

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/821,400

Applicant(s)

SEKI ET AL.

Examiner

Ramy M. Osman

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is responsive to communication received on 2/23/2005. Claims 1-20 are pending.

#### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it is too short. Correction is required. See MPEP § 608.01(b).

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3 and 12 recites the limitation "the volume" in line 4. There is insufficient antecedent basis for this limitation in the claim.

6. Claims 3 and 12 recites the limitation "the communication traffic" in line 4. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8. **Claims 1-19 rejected under 35 U.S.C. 102(a) as being anticipated by Chang et al. (US Patent No 6,134,584).**

9. In reference to claims 1,6,10,13 and 16-19, Chang teaches a web page acquisition system, provider, method, computer readable memory and program of instructions, all respectively comprising:

a web page acquisition server and a user terminal, both of which are connected to a communication network, wherein said user terminal transmits to said web page acquisition server a web page acquisition request that includes various acquisition conditions (column 2 lines 20-40, column 3 lines 25-55, and column 7 lines 1-15 & 45-50); and

wherein, in accordance with said acquisition conditions included in said web page acquisition request received from said user terminal and at least one predetermined scheduling rule, said web page acquisition server acquires a web page source from a web server on said communication network and transmits said web page source to said user terminal (column 4 lines

23-50, column 5 line 65 – column 6 line 25 and column 7 lines 1-15 & 45-50, Chang teaches that a ‘destination entity’ (i.e. applicants *web page acquisition server*) acquires web page data from a ‘web page source entity’ (i.e. applicants *web server*), based on a requesting message from a ‘requesting computer system’ (i.e. applicants *user terminal*). The ‘destination entity’ then transmits the web page to the ‘requesting computer system’. Chang also teaches a ‘Data Download Scheduler’ (i.e. applicants *scheduling rule*)).

10. In reference to claims 2 and 11, Chang teaches web page acquisition service system and method according to claims 1 and 13:

wherein, as one of said acquisition conditions included in said web page acquisition request, said user terminal designates a time condition for the acquisition of a web page source (column 6 lines 47-67); and

wherein, in accordance with said time condition designated in said web page acquisition request, said web page acquisition server acquires said web page source and transmits said web page source to said user terminal (Summary, column 6 lines 40-67 and column 7 lines 30-55).

11. In reference to claims 3,4 and 12, Chang teaches web page acquisition service system and method according to claims 2 and 11,

wherein said web page acquisition server performs scheduling for the acquisition of a web page source, while taking into account said time condition that is designated in said web page acquisition request and the volume of the communication traffic carried by said communication network (Summary, column 2 lines 20-40 and column 6 lines 1-40).

12. In reference to claim 5, Chang teaches web page acquisition service system according to claim 1,

wherein, when said web page acquisition server receives from a plurality of user terminals a plurality of web page acquisition requests for the same page, said web page acquisition server obtains and archives a corresponding web page source for said plurality of requests, and transmits said web page source to said user terminals that issued said web page acquisition requests (Summary and column 2 lines 20-40).

13. In reference to claims 7 and 15, Chang teaches provider and method according to claims 6 and 13, wherein said transmission control unit forms into a library file said web page source that, in accordance with said web page acquisition request, is obtained and held in said web page acquisition/archiving unit, and transmits said library file to said user terminal (Summary, column 2 lines 20-40 and column 7 lines 20-55).

14. In reference to claim 8, Chang teaches provider according to claim 7, wherein when a limitation is placed on the size of a data file that said user terminal, which is a web page source transmission destination, can receive as a single transmission, said transmission control unit divides, into segments having an appropriate size for said user terminal, said web page source that is held in said web page acquisition/archiving unit, and forms said segments into library files (Summary, column 2 lines 20-40 and column 7 lines 20-55).

15. In reference to claim 9, Chang teaches provider according to claim 6, wherein said transmission control unit changes a link for said web page source held by said web page acquisition/archiving unit from an absolute link based on the URL of a web page source, into a relative link (Summary, column 2 lines 20-40 and column 6).

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. **Claim 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Chang et al. (US Patent No 6,134,584) in view of Reha et al (US Patent No 6,282,709).**

Chang teaches the web page acquisition service according to claim 1. Chang fails to explicitly teach wherein, said at least one predetermined scheduling rule comprises the acquisition of a web page source occurring during a time period during which a volume of communication is small. However, Reha teaches downloading software updates which includes a scheduler for scheduling downloading during non-peak connection times to make the system more efficient and user friendly (column 1 lines 50-67 and column 10 lines 15-30).

It would have been obvious for one of ordinary skill in the art to modify Chang by making the at least one predetermined scheduling rule comprise the acquisition of a web page source occurring during a time period during which a volume of communication is small as per the teachings of Reha for the purpose of making the system more efficient and user friendly.

18. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

***Response to Amendment***

19. Examiner acknowledges RCE amendment filed 2/23/2005 where applicant amended claims 1,6,10,13,16-19 and added new claim 20.

***Response to Arguments***

20. Applicant's arguments filed 2/23/2005 have been fully considered but they are not persuasive.

21. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The Chang reference teaches all of the claim elements as described above.

Applicant mischaracterizes the Chang reference by stating that it *stands in stark contrast to the present invention* because Chang addresses *power conservation issue*. However, the title and abstract of Chang clearly state that it is a method of scheduling data downloads, such as web pages.

22. Applicant argues that Chang fails to teach *at least one predetermined scheduling rule*. However, Chang does teach allowing a user to schedule data download from web sites, and specifying limits on the download time (column 4 lines 23-28).

23. Applicants claims are broad and are thus broadly interpreted as described above.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 9, 2005

  
SALEH NAJJAR  
PRIMARY EXAMINER